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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bengston, *et al.*

Attorney Docket No.: RIC-99-030

Application No.: 09/365,081

Group Art Unit: 2664

Filed: 7/30/1999

Examiner: Shah, Chirag G.

Title: Method for Monitoring Spare Capacity of a DRA Network

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JAN 24 2003

Commissioner for Patents
Washington, D.C. 20231

Technology Center 2600

AMENDMENT ACCOMPANYING CONTINUED PROSECUTION APPLICATION

Dear Sir:

REMARKS

The following remarks are made in response to the Examiner's rejection mailed October 22, 2002. In that action, each of the pending claims 1-7 was rejected under the judicially created doctrine of obvious-type, double patenting and also over prior art under Section 103. Based on these remarks, Applicant respectfully requests that these rejections be withdrawn.

All the pending claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sees (U.S. Patent No. 6,222,821 B1) in view of Russ (U.S. Patent No. 5,623,481). Applicant has concurrently filed a Statement of Common Ownership indicating that the Sees patent and the Russ patent were, at the time of the invention of the present application, owned by the same organization as the present application. As a result, these references are not valid prior art in accordance with 35 U.S.C. § 103(c).